

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In Re: AUTOMOTIVE PARTS
ANTITRUST LITIGATION

Master File No. 12-md-02311
Honorable Marianne O. Battani

In Re: ALL AUTO PARTS CASES

THIS RELATES TO:

All Dealership Actions

**DEFENDANTS' OPPOSITION TO
AUTOMOBILE DEALER PLAINTIFF SLT GROUP II, INC.'S MOTION TO BE
DROPPED AS A NAMED PLAINTIFF AND PROPOSED CLASS REPRESENTATIVE**

STATEMENT OF THE ISSUES PRESENTED

1. Whether Automobile Dealer Plaintiff SLT Group II, Inc. should be permitted to withdraw as a named plaintiff and putative class representative without complying with this Court's Orders of January 7, 2015 and May 12, 2015?

Answer: No.

STATEMENT OF CONTROLLING OR MOST APPROPRIATE AUTHORITIES

Cases

In re Vitamins Antitrust Litig., 198 F.R.D. 296 (D.D.C. 2000).

In re Wellbutrin XL Antitrust Litig., 268 F.R.D. 539 (E.D. Pa. 2010).

Rulings

Am. Ruling of Special Master on Defs.' Mot. To Enforce the Jan. 7 & May 12, 2015 Stipulated Discovery Orders Against Holzhauer Auto & Truck Sales, Inc. & To Strike its Purported Notice of Withdrawal (Aug. 3, 2015) (12-cv-00102, ECF No. 332).

Order Granting Automobile Dealer Pl. Holzhauer Auto & Truck Sales, Inc.'s Rule 21 Mot. To Be Dropped as a Named Pl. & Proposed Class Representative (Sept. 29, 2015) (12-md-02311, ECF No. 1113

ARGUMENT

SLT Group II, Inc. (“SLT”) has identified nothing in its motion to distinguish its request from the motion filed by Plaintiff Beck Motors, Inc. (“Beck”) seeking precisely the same relief, which currently is under consideration by the Special Master. *See* Automobile Dealer Pl. Beck Motors Inc.’s Mot. To Be Dropped as a Named Pl. & Proposed Class Representative (“Beck Motion”) (12-md-02311, ECF No. 1094). Indeed, the substantive arguments included in SLT’s brief are copied nearly verbatim from the Beck Motion. *Compare* Mot. at 2–8, *with* Beck Motion at 1–8. Defendants see no reason why the Special Master’s disposition of both motions should not be the same. As such, Defendants hereby incorporate by reference the arguments set forth in Defendants’ Opposition to the Beck Motion (12-md-02311, ECF No. 1101), which are equally applicable here.

There is a wealth of precedent for requiring withdrawing plaintiffs to comply with their discovery obligations, *see, e.g.*, *In re Wellbutrin XL Antitrust Litig.*, 268 F.R.D. 539, 543–44 (E.D. Pa. 2010); *In re Vitamins Antitrust Litig.*, 198 F.R.D. 296, 303–06 (D.D.C. 2000), and this Court has already aligned itself with that precedent in its decisions concerning former plaintiff Holzhauer Auto & Truck Sales, Inc., *see* Am. Ruling of Special Master on Defs.’ Mot. To Enforce the Jan. 7 & May 12, 2015 Stipulated Disc. Orders Against Holzhauer Auto & Truck Sales, Inc. & To Strike Its Purported Notice of Withdrawal at 2–3 (Aug. 3, 2015) (12-cv-00102, ECF No. 332); Order Granting Automobile Dealer Pl. Holzhauer Auto & Truck Sales, Inc.’s Rule 21 Mot. To Be Dropped as a Named Pl. & Proposed Class Representative at 2–4 (Sept. 29, 2015) (12-md-02311, ECF No. 1113) (conditioning withdrawal on compliance with discovery obligations under the January 7 and May 12, 2015 Orders).

As evidenced by the authorities that SLT itself cites, in those cases in which courts have allowed plaintiffs to withdraw without complying with discovery obligations, plaintiffs have generally provided an explanation of the circumstances that justified their withdrawal and why compliance with outstanding discovery would be unfairly burdensome. In *In re Urethane Antitrust Litigation*, No. 04-MD-1616 (JWL), 2006 WL 8096533, at *1–3 (D. Kan. June 9, 2006), the movants were struggling with significant financial difficulties, and in *Doe v. Arizona Hospital & Healthcare Association*, No. CV 07-1292 (PHX), 2009 WL 1423378, at *13–14 (D. Ariz. Mar. 19, 2009), they were dealing with a significant family medical issue that limited their ability to continue as named plaintiffs. Here, SLT has provided no explanation *at all* for why it is seeking to withdraw.

The only case SLT cites for the proposition that a plaintiff may withdraw without complying with discovery obligations and without good cause is a twenty-eight-year-old, six-paragraph-long, unpublished decision of a magistrate judge in the Northern District of Illinois. See *Org. of Minority Vendors, Inc. v. Ill. Central-Gulf R.R.*, No. 79 C 1512, 1987 WL 8997, at *1 (N.D. Ill. Apr. 2, 1987). This case should be afforded no precedential weight. Indeed, the magistrate judge in that case noted that “[n]either side ha[d] suggested precedent or policy reasons to guide [its] determination.” *Id.*

For the foregoing reasons and the reasons set forth in Defendants’ Opposition to Beck’s Motion to Withdraw (12-md-02311, ECF No. 1101), the Special Master should deny SLT’s Motion to Withdraw to the extent SLT seeks to do so without complying with its existing discovery obligations under the Stipulated Orders of January 7 and May 12, 2015 (12-cv-00102, ECF Nos. 252, 310).

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CERTIFICATE OF SERVICE

I hereby certify that on November 9, 2015, I caused the foregoing **DEFENDANTS' OPPOSITION TO AUTOMOBILE DEALER PLAINTIFF SLT GROUP II, INC.'S MOTION TO BE DROPPED AS A NAMED PLAINTIFF AND PROPOSED CLASS REPRESENTATIVE** to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

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